IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.520 OF 2003

Keraba Nagu Shingare & Anr. ...Appellants

Versus

Chandrakant Narayan Gurav & Ors. ...Respondents

Shri M.R.Katikar for the Appellants.
Ms Archana B. Kololgi i/by Shri T.S.Ingale for the Respondent No.1.

CORAM : ABHAY S.OKA, J.
DATED : JULY 12, 2007.

P.C.:

1. Heard learned Advocates appearing for the parties. The Appellants are the original first and fourth Defendants and the first Respondent is the original Plaintiff. The first Respondent filed a suit for perpetual injunction restraining the Defendants from entering the suit property and from interfering with electric motor and pipeline installed by the first Respondent. The suit properties are more particularly described in clauses (a) to (d) of the plaint.

2. The trial Court decreed the suit and in Appeal the decree has been confirmed.

3. Shri Katikar appearing for the Appellants submitted that the Appellate Court has not considered

the case properly in so far as the property described in clause (d) (i.e land bearing Gat No.961) of paragraph No.1 of the plaint is concerned. He placed reliance on the agreement executed by Nanubai and Vilas Gurav in favour of the first Appellant. He submitted that as per the said agreement the first Appellant is entitled to land bearing Gat No.961. He submitted that the Courts below could not have granted injunction relating to land bearing Gat No.961. He, therefore, submitted that substantial question of law arises.

4. I have considered the submissions. A relief is claimed in the plaint in respect of Gat No.961 admeasuring 35 Are as well as one half share in respect of the well and right to draw water from the well on the said land. A written statement was filed by the Defendants. In the written statement there is a categorical admission that in so far as the property in clause (d) of paragraph No.1 of the plaint is concerned, there is a well in the said property and electric motor and pipeline have been installed. It is clearly admitted in the written statement that the first Respondent-Plaintiff is having one half share in land bearing Gat No.961. It is however stated that the first Respondent was cultivating the crop on the suit property by taking contribution of electricity charges and

repairs to the electric motor from the Defendants.

5. The decree passed by the trial Court in respect of the land bearing Gat No.961 relates only to one half share of the first Respondent in the land and in the well which is admitted by the Defendants including the present Appellants. Therefore, the case made out by the Appellants that the injunction relates to the entire Gat No.961 is obviously not correct. In view of the what is stated in above, no substantial question of law arises. The Appeal is dismissed with no order as to costs. Parties to act upon an authenticated copy of this order.

JUDGE